

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**Before the Honorable Steven C. Yarbrough
United States Magistrate Judge**

Clerk's Minutes

Hernandez v. Fitzgerald
14cv964 – KG/SCY

May 20, 2019

Present for the Plaintiff:	Louren Oliveros Anna Martinez Alfonso Hernandez Brandon Cummings
Present for the Defendant:	Jonlyn Martinez Terry Pierce
Courtroom Clerk:	Karen Grohman
Court Reporter:	Julie Goehl
Type Of Proceeding:	Jury Selection Total Time – 3 hours 29 minutes
Court in Session:	8:26 AM – 8:39 AM 9:20 AM – 11:02 AM 11:18 AM – 12:24 PM 12:34 PM – 12:54 PM 12:59 PM – 1:07 PM

Clerk's Minutes:

8:26 am	Counsel enter their appearances. The Court asks the parties to address any preliminary matters.
8:29 am	Counsel for Plaintiff inquires about going over the witness list with the jury. She advises she will not be calling several witnesses pursuant to Court orders or being unable to locate them. The parties discuss potential depositions between now and trial.
8:33 am	Counsel for Plaintiff advises she wishes to voir dire on the subject of a prior settlement between Plaintiff and the City/APD. Counsel for Plaintiff

preserves her objection to the admissibility of that evidence at trial. Counsel for Plaintiff advises that certain jury questionnaires are incomplete.

8:38 am Counsel for Defendant advises that Mr. Krantz is on her witness list. Counsel for Defendant advises she is not calling Mr. Bustamante or Dr. Caffery.

8:39 am The Court is in recess.

9:20 am The Court is in session. The Court introduces the court staff who will be present at jury selection and trial.

9:21 am The Court reads the parties' statement of the case.

9:23 am The Court addresses the jury pool to explain trial and jury selection process.

9:27 am The Court administers the oath to jury pool. The Court explains when trial will take place and asks for serious scheduling conflicts. Several jurors address their scheduling needs.

9:37 am Juror #15 indicates he knows Plaintiff personally.

9:38 am The Court inquires as to whether the potential jurors are able to follow Court's instructions and follow the law.

9:44 am The Court introduces the attorneys and those present for each side.

9:49 am The parties describe their witness list to the jury panel.

9:52 am Bench conference with Juror # 15.

9:54 am Bench conference concluded. Plaintiff's counsel begins to voir dire.

10:54 am Plaintiff's counsel concludes voir dire. The Court excuses jury panel. The Court addresses attorneys regarding the ruling on evidence of the prior settlement. The Court explains it would not consider admission of bias based on that evidence to be a proper for-cause challenge.

11:02 am The Court is in recess.

11:18 am The Court is in session. Defendant's counsel begins to voir dire.

11:56 am Defendant's counsel concludes voir dire. The Court questions the jury panel.

12:00 pm Bench conference with Juror #17 about his unavailability for trial.

12:03 pm Bench conference with Juror #19 about his unavailability for trial.

12:05 pm Bench conference with Juror #5 about his unavailability for trial.

12:09 pm Bench conference with Juror #14 about his unavailability for trial.

12:15 pm Bench conference with Juror #12 about her unavailability for trial.

12:17 pm Bench conference with Juror #11 about his unavailability for trial.

12:22 pm Bench conference with Juror #10 about his unavailability for trial.

12:23 pm Bench conference with Juror #9 about his unavailability for trial.

12:24 pm The Court is in recess.

12:34 pm The Court is in session with attorneys for both sides to discuss challenges to potential jurors. Plaintiff moves to strike for cause Jurors #5, #10, #11, #14, #15, #17, and #19. Defendant agrees to striking Jurors #5, #11, #14, #15, and #19. The Court excuses Juror #15 because of his relationship with Plaintiff. The Court excuses Jurors #5, #11, #14, and #19 due to the financial hardship that would result from missing a week of work. The Court explained that Juror #10 would not be excused for cause because he was rehabilitated when he said he could follow the Court's instructions. And the Court ruled that Juror #17 would not be excused for cause because he also said he could follow the Court's instructions and he was not in the same position with respect to the other jurors in terms of financial hardship to be out of work for the week of trial.

Plaintiff and Defendant accept Jurors #1 and #2. Defendant rejects Juror #3. Plaintiff and Defendant accept Jurors # 4, #6, and # 7. Plaintiff strikes Jurors #8 and #9. Plaintiff and Defendant accept Juror #10. Defendant strikes Juror #12. Plaintiff strikes Juror # 13. Plaintiff having used all three of his peremptory challenges, Defendant accepts Jurors # 16 and 17.

The Court explains that it will break for lunch and requests attorneys to return to Court at 2:30 pm to argue deposition designations and objections.

12:54 pm The Court is in recess.

12:59 pm The Court is back in session. The Court reads the names of the jurors chosen: Jurors #1; #2; #4; #6; #7; #10; # 16; and #17.

1:02 pm The Court excuses the rest of the jury panel.

1:02 pm The Court administers oath to jury. The Court issues departing instructions.

1:07 pm The Court excuses the jury. Attorneys are to be back in court at 2:30 pm. The Court is in recess.